

29 requirements; providing for commission records and
 30 enforcement; authorizing the commission to adopt
 31 rules; providing for disclosure of certain
 32 information; specifying that certain records, data, or
 33 information of the commission, wherever received, by
 34 and in possession of the Office of Insurance
 35 Regulation is subject to ch. 119, F.S.; requiring the
 36 commission to monitor for compliance; providing for
 37 dispute resolution; providing for product filing and
 38 approval; requiring the commission to establish filing
 39 and review processes and procedures; providing for
 40 review of commission decisions regarding filings;
 41 providing for finance of commission activities;
 42 providing for payment of expenses; authorizing the
 43 commission to collect filing fees for certain
 44 purposes; providing for approval of a commission
 45 budget; exempting the commission from all taxation,
 46 except as otherwise provided; prohibiting the
 47 commission from pledging the credit of any compacting
 48 states without authority; requiring the commission to
 49 keep complete accurate accounts, provide for audits,
 50 and make annual reports to the Governors and
 51 Legislatures of compacting states; providing for
 52 amendment of the compact; providing for withdrawal
 53 from the compact, default by compacting states, and
 54 dissolution of the compact; providing severability and
 55 construction; providing for binding effect of this
 56 compact and other laws; prospectively opting out of

57 | all uniform standards adopted by the commission
 58 | involving long-term care insurance products; adopting
 59 | all other existing uniform standards that have been
 60 | adopted by the commission; providing a procedure for
 61 | adoption of any new uniform standards or amendments to
 62 | existing uniform standards of the commission;
 63 | requiring the office to notify the legislature of any
 64 | new uniform standards or amendments to existing
 65 | uniform standards of the commission; providing that
 66 | any new uniform standards or amendments to existing
 67 | uniform standards of the commission may only be
 68 | adopted via legislation; authorizing the Financial
 69 | Services Commission to adopt rules to implement this
 70 | act and opt out of certain uniform standards;
 71 | providing an effective date.

72 |

73 | Be It Enacted by the Legislature of the State of Florida:

74 |

75 | Section 1. Legislative findings; intent.—

76 | (1) The Legislature finds that the financial services
 77 | marketplace has changed significantly in recent years and that
 78 | asset-based insurance products, which include life insurance,
 79 | annuities, disability income insurance, and long-term care
 80 | insurance, now compete directly with other retirement and estate
 81 | planning instruments that are sold by banks and securities
 82 | firms.

83 | (2) The Legislature further finds that the increased
 84 | mobility of the population and the risks borne by these asset-

85 based products are not local in nature.

86 (3) The Legislature further finds that the Interstate
 87 Insurance Product Regulation Compact Model adopted by the
 88 National Association of Insurance Commissioners and endorsed by
 89 the National Conference of Insurance Legislators and the
 90 National Conference of State Legislatures is designed to address
 91 these market changes by providing a uniform set of product
 92 standards and a single source for filing of new products.

93 (4) The Legislature further finds that the product
 94 standards that have been developed provide a high level of
 95 consumer protection. Further, it is noted that the Interstate
 96 Insurance Product Regulation Compact Model includes a mechanism
 97 for opting out of any product standard that the state determines
 98 would not reasonably protect its citizens. With respect to long-
 99 term care insurance, the Legislature understands that the
 100 compact does not intend to develop a uniform standard for rate
 101 increase filings, thereby leaving the authority over long-term
 102 care rate increases with the state. The state relies on that
 103 understanding in adopting this legislation. The state, pursuant
 104 to the terms and conditions of this act, seeks to join with
 105 other states and establish the Interstate Insurance Product
 106 Regulation Compact, and thus become a member of the Interstate
 107 Insurance Product Regulation Commission. The Commissioner of
 108 Insurance Regulation is hereby designated to serve as the
 109 representative of this state on the commission. The commissioner
 110 may designate a person to represent this state on the
 111 commission, as is necessary, in order to fulfill the duties of
 112 being a member of the commission.

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Section 2. Interstate Insurance Product Regulation Compact.—The Interstate Insurance Product Regulation Compact is hereby enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

Interstate Insurance Product Regulation Compact

Preamble

This compact is intended to help states join together to establish an interstate compact to regulate designated insurance products. Pursuant to the terms and conditions of this compact, this state seeks to join with other states and establish the Interstate Insurance Product Regulation Compact and thus become a member of the Interstate Insurance Product Regulation Commission.

Article I

PURPOSES.—The purposes of this compact are, through means of joint and cooperative action among the compacting states, to:

- (1) Promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products.
- (2) Develop uniform standards for insurance products covered under the compact.

169 (2) "Bylaws" means those bylaws adopted by the commission
 170 as of March 1, 2013, for its governance or for directing or
 171 controlling the commission's actions or conduct.

172 (3) "Compacting state" means any state which has enacted
 173 this compact legislation and has not withdrawn pursuant to
 174 subsection (1) of Article XIV of this compact or been terminated
 175 pursuant to subsection (2) of Article XIV of this compact.

176 (4) "Commission" means the "Interstate Insurance Product
 177 Regulation Commission" established by this compact.

178 (5) "Commissioner" means the chief insurance regulatory
 179 official of a state, including, but not limited to, the
 180 commissioner, superintendent, director, or administrator. For
 181 purposes of this compact, the Commissioner of Insurance
 182 Regulation is the chief insurance regulatory official of this
 183 state.

184 (6) "Domiciliary state" means the state in which an
 185 insurer is incorporated or organized or, in the case of an alien
 186 insurer, its state of entry.

187 (7) "Insurer" means any entity licensed by a state to
 188 issue contracts of insurance for any of the lines of insurance
 189 covered by this compact.

190 (8) "Member" means the person chosen by a compacting state
 191 as its representative to the commission, or his or her designee.

192 (9) "Noncompacting state" means any state which is not at
 193 the time a compacting state.

194 (10) "Office" means the Office of Insurance Regulation of
 195 the Financial Services Commission.

196 (11) "Operating procedures" means procedures adopted by

197 the commission as of March 1, 2013, and subsequent amendments
 198 thereto if the methodology remains substantially consistent,
 199 implementing a rule, uniform standard, or provision of this
 200 compact.

201 (12) "Product" means the form of a policy or contract,
 202 including any application, endorsement, or related form which is
 203 attached to and made a part of the policy or contract, and any
 204 evidence of coverage or certificate, for an individual or group
 205 annuity, life insurance, disability income, or long-term care
 206 insurance product that an insurer is authorized to issue.

207 (13) "Rule" means a statement of general or particular
 208 applicability and future effect adopted by the commission as of
 209 March 1, 2013, and subsequent amendments thereto if the
 210 methodology remains substantially consistent, including a
 211 uniform standard developed pursuant to Article VII of this
 212 compact, designed to implement, interpret, or prescribe law or
 213 policy or describe the organization, procedure, or practice
 214 requirements of the commission, which shall have the force and
 215 effect of law in the compacting states.

216 (14) "State" means any state, district, or territory of
 217 the United States.

218 (15) "Third-party filer" means an entity that submits a
 219 product filing to the commission on behalf of an insurer.

220 (16) "Uniform standard" means a standard adopted by the
 221 commission as of March 1, 2013, and subsequent amendments
 222 thereto if the methodology remains substantially consistent, for
 223 a product line pursuant to Article VII of this compact and shall
 224 include all of the product requirements in aggregate; provided,

225 each uniform standard shall be construed, whether express or
 226 implied, to prohibit the use of any inconsistent, misleading, or
 227 ambiguous provisions in a product and the form of the product
 228 made available to the public shall not be unfair, inequitable,
 229 or against public policy as determined by the commission.

230

231 Article III

232

233 COMMISSION; ESTABLISHMENT; VENUE.—

234 (1) The compacting states hereby create and establish a
 235 joint public agency known as the Interstate Insurance Product
 236 Regulation Commission. Pursuant to Article IV of this compact,
 237 the commission has the power to develop uniform standards for
 238 product lines, receive and provide prompt review of products
 239 filed with the commission, and give approval to those product
 240 filings satisfying applicable uniform standards; provided, it is
 241 not intended for the commission to be the exclusive entity for
 242 receipt and review of insurance product filings. Nothing in this
 243 article shall prohibit any insurer from filing its product in
 244 any state in which the insurer is licensed to conduct the
 245 business of insurance and any such filing shall be subject to
 246 the laws of the state where filed.

247 (2) The commission is a body corporate and politic and an
 248 instrumentality of the compacting states.

249 (3) The commission is solely responsible for its
 250 liabilities, except as otherwise specifically provided in this
 251 compact.

252 (4) Venue is proper and judicial proceedings by or against

253 | the commission shall be brought solely and exclusively in a
 254 | court of competent jurisdiction where the principal office of
 255 | the commission is located.

256 | (5) The commission is a not-for-profit entity, separate
 257 | and distinct from the individual compacting states.

258 |
 259 | Article IV
 260 |

261 | POWERS.—The commission shall have the following powers to:

262 | (1) Adopt rules, pursuant to Article VII, which shall have
 263 | the force and effect of law and shall be binding in the
 264 | compacting states to the extent and in the manner provided in
 265 | this compact.

266 | (2) Exercise its rulemaking authority and establish
 267 | reasonable uniform standards for products covered under the
 268 | compact, and advertisement related thereto, which shall have the
 269 | force and effect of law and shall be binding in the compacting
 270 | states, but only for those products filed with the commission;
 271 | provided a compacting state shall have the right to opt out of
 272 | such uniform standard pursuant to Article VII to the extent and
 273 | in the manner provided in this compact and any uniform standard
 274 | established by the commission for long-term care insurance
 275 | products may provide the same or greater protections for
 276 | consumers as, but shall provide at least, those protections set
 277 | forth in the National Association of Insurance Commissioners'
 278 | Long-Term Care Insurance Model Act and Long-Term Care Insurance
 279 | Model Regulation, respectively, adopted as of 2001. The
 280 | commission shall consider whether any subsequent amendments to

281 the National Association of Insurance Commissioners' Long-Term
 282 Care Insurance Model Act or Long-Term Care Insurance Model
 283 Regulation adopted by the National Association of Insurance
 284 Commissioners require amending of the uniform standards
 285 established by the commission for long-term care insurance
 286 products.

287 (3) Receive and review in an expeditious manner products
 288 filed with the commission and rate filings for disability income
 289 and long-term care insurance products and give approval of those
 290 products and rate filings that satisfy the applicable uniform
 291 standard, and such approval shall have the force and effect of
 292 law and be binding on the compacting states to the extent and in
 293 the manner provided in the compact.

294 (4) Receive and review in an expeditious manner
 295 advertisement relating to long-term care insurance products for
 296 which uniform standards have been adopted by the commission, and
 297 give approval to all advertisement that satisfies the applicable
 298 uniform standard. For any product covered under this compact,
 299 other than long-term care insurance products, the commission
 300 shall have the authority to require an insurer to submit all or
 301 any part of its advertisement with respect to that product for
 302 review or approval prior to use, if the commission determines
 303 that the nature of the product is such that an advertisement of
 304 the product could have the capacity or tendency to mislead the
 305 public. The actions of the commission as provided in this
 306 subsection shall have the force and effect of law and shall be
 307 binding in the compacting states to the extent and in the manner
 308 provided in the compact.

309 (5) Exercise its rulemaking authority and designate
310 products and advertisement that may be subject to a self-
311 certification process without the need for prior approval by the
312 commission.

313 (6) Adopt operating procedures, pursuant to Article VII,
314 which shall be binding in the compacting states to the extent
315 and in the manner provided in this compact.

316 (7) Bring and prosecute legal proceedings or actions in
317 its name as the commission; provided the standing of any state
318 insurance department to sue or be sued under applicable law
319 shall not be affected.

320 (8) Issue subpoenas requiring the attendance and testimony
321 of witnesses and the production of evidence.

322 (9) Establish and maintain offices.

323 (10) Purchase and maintain insurance and bonds.

324 (11) Borrow, accept, or contract for services of
325 personnel, including, but not limited to, employees of a
326 compacting state. Any action under this subsection concerning
327 employees of this state may only be taken upon the express
328 written consent of the state.

329 (12) Hire employees, professionals, or specialists; elect
330 or appoint officers and fix their compensation, define their
331 duties, give them appropriate authority to carry out the
332 purposes of the compact, and determine their qualifications; and
333 establish the commission's personnel policies and programs
334 relating to, among other things, conflicts of interest, rates of
335 compensation, and qualifications of personnel.

336 (13) Accept any and all appropriate donations and grants

337 of money, equipment, supplies, materials, and services and to
338 receive, use, and dispose of the same; provided at all times the
339 commission shall avoid any appearance of impropriety.

340 (14) Lease, purchase, and accept appropriate gifts or
341 donations of, or otherwise to own, hold, improve, or use, any
342 property, real, personal, or mixed; provided at all times the
343 commission shall avoid any appearance of impropriety.

344 (15) Sell, convey, mortgage, pledge, lease, exchange,
345 abandon, or otherwise dispose of any property, real, personal,
346 or mixed.

347 (16) Remit filing fees to compacting states as may be set
348 forth in the bylaws, rules, or operating procedures.

349 (17) Enforce compliance by compacting states with rules,
350 uniform standards, operating procedures, and bylaws.

351 (18) Provide for dispute resolution among compacting
352 states.

353 (19) Advise compacting states on issues relating to
354 insurers domiciled or doing business in noncompacting
355 jurisdictions, consistent with the purposes of this compact.

356 (20) Provide advice and training to those personnel in
357 state insurance departments responsible for product review and
358 to be a resource for state insurance departments.

359 (21) Establish a budget and make expenditures.

360 (22) Borrow money, provided that this power does not, in
361 any manner, obligate the financial resources of the State of
362 Florida.

363 (23) Appoint committees, including advisory committees,
364 comprising members, state insurance regulators, state

365 legislators or their representatives, insurance industry and
 366 consumer representatives, and such other interested persons as
 367 may be designated in the bylaws.

368 (24) Provide and receive information from and to cooperate
 369 with law enforcement agencies.

370 (25) Adopt and use a corporate seal.

371 (26) Perform such other functions as may be necessary or
 372 appropriate to achieve the purposes of this compact consistent
 373 with the state regulation of the business of insurance.

374
 375 Article V

376
 377 ORGANIZATION.—

378 (1) Membership; voting; bylaws.—

379 (a)1. Each compacting state shall have and be limited to
 380 one member. Each member shall be qualified to serve in that
 381 capacity pursuant to applicable law of the compacting state. Any
 382 member may be removed or suspended from office as provided by
 383 the law of the state from which he or she is appointed. Any
 384 vacancy occurring in the commission shall be filled in
 385 accordance with the laws of the compacting state in which the
 386 vacancy exists. Nothing in this article shall be construed to
 387 affect the manner in which a compacting state determines the
 388 election or appointment and qualification of its own
 389 commissioner. However, the commissioner may designate a person
 390 to represent this state on the commission, as is necessary, in
 391 order to fulfill the duties of being a member of the commission.

392 2. The Commissioner of Insurance Regulation is hereby

393 designated to serve as the representative of this state on the
 394 commission. However, the commissioner may designate a person to
 395 represent this state on the commission, as is necessary, in
 396 order to fulfill the duties of being a member of the commission.

397 (b) Each member shall be entitled to one vote and shall
 398 have an opportunity to participate in the governance of the
 399 commission in accordance with the bylaws. Notwithstanding any
 400 other provision of this article, no action of the commission
 401 with respect to the adoption of a uniform standard shall be
 402 effective unless two-thirds of the members vote in favor of such
 403 action.

404 (c) The commission shall, by a majority of the members,
 405 prescribe bylaws to govern its conduct as may be necessary or
 406 appropriate to carry out the purposes and exercise the powers of
 407 the compact, including, but not limited to:

- 408 1. Establishing the fiscal year of the commission.
- 409 2. Providing reasonable procedures for appointing and
 410 electing members, as well as holding meetings, of the management
 411 committee.
- 412 3. Providing reasonable standards and procedures:
 - 413 a. For the establishment and meetings of other committees.
 - 414 b. Governing any general or specific delegation of any
 415 authority or function of the commission.

- 416 4. Providing reasonable procedures for calling and
 417 conducting meetings of the commission that consist of a majority
 418 of commission members, ensuring reasonable advance notice of
 419 each such meeting, and providing for the right of citizens to
 420 attend each such meeting with enumerated exceptions designed to

421 protect the public's interest, the privacy of individuals, and
422 insurers' proprietary information, including, but not limited
423 to, trade secrets. The commission may meet in camera only after
424 a majority of the entire membership votes to close a meeting in
425 total or in part. The commissioner of this state, or the
426 commissioner's designee, may attend, or otherwise participate
427 in, a meeting or executive session that is closed in total or
428 part to the extent such attendance or participation is
429 consistent with Florida law. As soon as practicable, the
430 commission must make public a copy of the vote to close the
431 meeting revealing the vote of each member with no proxy votes
432 allowed, and votes taken during such meeting. All notices of
433 commission meetings, including instructions for public
434 participation, provided to the office, the commissioner, or the
435 commissioner's designee shall be published in the Florida
436 Administrative Register.

437 5. Establishing the titles, duties, and authority and
438 reasonable procedures for the election of the officers of the
439 commission.

440 6. Providing reasonable standards and procedures for the
441 establishment of the personnel policies and programs of the
442 commission. Notwithstanding any civil service or other similar
443 laws of any compacting state, the bylaws shall exclusively
444 govern the personnel policies and programs of the commission.

445 7. Adopting a code of ethics to address permissible and
446 prohibited activities of commission members and employees. This
447 code does not supersede or otherwise limit the obligations and
448 duties of this state's commissioner or the commissioner's

449 designee under ethics laws or rules of the State of Florida. To
 450 the extent there is any inconsistency between the standards
 451 imposed by this code and the standards imposed under this
 452 state's ethics laws or rules, the commissioner or the
 453 commissioner's designee must adhere to the stricter standard of
 454 conduct.

455 8. Providing a mechanism for winding up the operations of
 456 the commission and the equitable disposition of any surplus
 457 funds that may exist after the termination of the compact after
 458 the payment or reserving of all debts and obligations of the
 459 commission.

460 (d) The commission shall publish its bylaws in a
 461 convenient form and file a copy of such bylaws and a copy of any
 462 amendment to such bylaws, with the appropriate agency or officer
 463 in each of the compacting states.

464 (2) Management committee, officers, and personnel.-

465 (a) A management committee comprising no more than 14
 466 members shall be established as follows:

467 1. One member from each of the six compacting states with
 468 the largest premium volume for individual and group annuities,
 469 life, disability income, and long-term care insurance products,
 470 determined from the records of the National Association of
 471 Insurance Commissioners for the prior year.

472 2. Four members from those compacting states with at least
 473 2 percent of the market based on the premium volume described
 474 above, other than the six compacting states with the largest
 475 premium volume, selected on a rotating basis as provided in the
 476 bylaws.

477 3. Four members from those compacting states with less
 478 than 2 percent of the market, based on the premium volume
 479 described above, with one selected from each of the four zone
 480 regions of the National Association of Insurance Commissioners
 481 as provided in the bylaws.

482 (b) The management committee shall have such authority and
 483 duties as may be set forth in the bylaws, including, but not
 484 limited to:

485 1. Managing the affairs of the commission in a manner
 486 consistent with the bylaws and purposes of the commission.

487 2. Establishing and overseeing an organizational structure
 488 within, and appropriate procedures for, the commission to
 489 provide for the creation of uniform standards and other rules,
 490 receipt and review of product filings, administrative and
 491 technical support functions, review of decisions regarding the
 492 disapproval of a product filing, and the review of elections
 493 made by a compacting state to opt out of a uniform standard;
 494 provided a uniform standard shall not be submitted to the
 495 compacting states for adoption unless approved by two-thirds of
 496 the members of the management committee.

497 3. Overseeing the offices of the commission.

498 4. Planning, implementing, and coordinating communications
 499 and activities with other state, federal, and local government
 500 organizations in order to advance the goals of the commission.

501 (c) The commission shall elect annually officers from the
 502 management committee, with each having such authority and duties
 503 as may be specified in the bylaws.

504 (d) The management committee may, subject to the approval

505 of the commission, appoint or retain an executive director for
 506 such period, upon such terms and conditions, and for such
 507 compensation as the commission may deem appropriate. The
 508 executive director shall serve as secretary to the commission
 509 but shall not be a member of the commission. The executive
 510 director shall hire and supervise such other staff as may be
 511 authorized by the commission.

512 (3) Legislative and advisory committees.-

513 (a) A legislative committee comprised of state legislators
 514 or their designees shall be established to monitor the
 515 operations of and make recommendations to the commission,
 516 including the management committee; provided the manner of
 517 selection and term of any legislative committee member shall be
 518 as set forth in the bylaws. Prior to the adoption by the
 519 commission of any uniform standard, revision to the bylaws,
 520 annual budget, or other significant matter as may be provided in
 521 the bylaws, the management committee shall consult with and
 522 report to the legislative committee.

523 (b) The commission shall establish two advisory
 524 committees, one comprising consumer representatives independent
 525 of the insurance industry and the other comprising insurance
 526 industry representatives.

527 (c) The commission may establish additional advisory
 528 committees as the bylaws may provide for the carrying out of
 529 commission functions.

530 (4) Corporate records of the commission.-The commission
 531 shall maintain its corporate books and records in accordance
 532 with the bylaws.

533 (5) Qualified immunity, defense and indemnification.—
 534 (a) The members, officers, executive director, employees,
 535 and representatives of the commission shall be immune from suit
 536 and liability, either personally or in their official capacity,
 537 for any claim for damage to or loss of property or personal
 538 injury or other civil liability caused by or arising out of any
 539 actual or alleged act, error, or omission that occurred, or that
 540 the person against whom the claim is made had a reasonable basis
 541 for believing occurred within the scope of commission
 542 employment, duties, or responsibilities; provided nothing in
 543 this paragraph shall be construed to protect any such person
 544 from suit or liability for any damage, loss, injury, or
 545 liability caused by the intentional or willful and wanton
 546 misconduct of that person.

547 (b) The commission shall defend any member, officer,
 548 executive director, employee, or representative of the
 549 commission in any civil action seeking to impose liability
 550 arising out of any actual or alleged act, error, or omission
 551 that occurred within the scope of commission employment, duties,
 552 or responsibilities, or that the person against whom the claim
 553 is made had a reasonable basis for believing occurred within the
 554 scope of commission employment, duties, or responsibilities;
 555 provided nothing in this article shall be construed to prohibit
 556 that person from retaining his or her own counsel and the actual
 557 or alleged act, error, or omission did not result from that
 558 person's intentional or willful and wanton misconduct.

559 (c) The commission shall indemnify and hold harmless any
 560 member, officer, executive director, employee, or representative

561 of the commission for the amount of any settlement or judgment
 562 obtained against that person arising out of any actual or
 563 alleged act, error, or omission that occurred within the scope
 564 of commission employment, duties, or responsibilities, or that
 565 such person had a reasonable basis for believing occurred within
 566 the scope of commission employment, duties, or responsibilities;
 567 provided the actual or alleged act, error, or omission did not
 568 result from the intentional or willful and wanton misconduct of
 569 that person.

570
 571 Article VI

572
 573 MEETINGS; ACTS.—

574 (1) The commission shall meet and take such actions as are
 575 consistent with the provisions of this compact and the bylaws.

576 (2) Each member of the commission shall have the right and
 577 power to cast a vote to which that compacting state is entitled
 578 and to participate in the business and affairs of the
 579 commission. A member shall vote in person or by such other means
 580 as provided in the bylaws. The bylaws may provide for members'
 581 participation in meetings by telephone or other means of
 582 communication.

583 (3) The commission shall meet at least once during each
 584 calendar year. Additional meetings shall be held as set forth in
 585 the bylaws.

586
 587 Article VII
 588

589 RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE
590 COMMISSION; OPTING OUT OF UNIFORM STANDARDS.—

591 (1) Rulemaking authority.—The commission shall adopt
592 reasonable rules, including uniform standards, and operating
593 procedures in order to effectively and efficiently achieve the
594 purposes of this compact. Notwithstanding such requirement, if
595 the commission exercises its rulemaking authority in a manner
596 that is beyond the scope of the purposes of this compact or the
597 powers granted under this compact, such action by the commission
598 shall be invalid and have no force and effect.

599 (2) Rulemaking procedure.—Rules and operating procedures
600 shall be made pursuant to a rulemaking process that conforms to
601 the Model State Administrative Procedure Act of 1981, as
602 amended, as may be appropriate to the operations of the
603 commission. Before the commission adopts a uniform standard, the
604 commission shall give written notice to the relevant state
605 legislative committees in each compacting state responsible for
606 insurance issues of its intention to adopt the uniform standard.
607 The commission in adopting a uniform standard shall consider
608 fully all submitted materials and issue a concise explanation of
609 its decision.

610 (3) Effective date and opt out of a uniform standard.—A
611 uniform standard shall become effective 90 days after its
612 adoption by the commission or such later date as the commission
613 may determine; provided a compacting state may opt out of a
614 uniform standard as provided in this act. The term "opt out"
615 means any action by a compacting state to decline to adopt or
616 participate in an adopted uniform standard. All other rules and

617 operating procedures, and amendments thereto, shall become
 618 effective as of the date specified in each rule, operating
 619 procedure, or amendment.

620 (4) Opt out procedure.—

621 (a) A compacting state may opt out of a uniform standard
 622 by legislation or regulation adopted by the compacting state
 623 under such state's Administrative Procedure Act. If a compacting
 624 state elects to opt out of a uniform standard by regulation,
 625 such state must:

626 1. Give written notice to the commission no later than 10
 627 business days after the uniform standard is adopted, or at the
 628 time the state becomes a compacting state.

629 2. Find that the uniform standard does not provide
 630 reasonable protections to the citizens of the state, given the
 631 conditions in the state.

632 (b) The commissioner of a compacting state other than this
 633 state shall make specific findings of fact and conclusions of
 634 law, based on a preponderance of the evidence, detailing the
 635 conditions in the state which warrant a departure from the
 636 uniform standard and determining that the uniform standard would
 637 not reasonably protect the citizens of the state. The
 638 commissioner must consider and balance the following factors and
 639 find that the conditions in the state and needs of the citizens
 640 of the state outweigh:

641 1. The intent of the Legislature to participate in, and
 642 the benefits of, an interstate agreement to establish national
 643 uniform consumer protections for the products subject to this
 644 compact.

645 2. The presumption that a uniform standard adopted by the
646 commission provides reasonable protections to consumers of the
647 relevant product.

648
649 Notwithstanding this subsection, a compacting state may, at the
650 time of its enactment of this compact, prospectively opt out of
651 all uniform standards involving long-term care insurance
652 products by expressly providing for such opt out in the enacted
653 compact, and such an opt out shall not be treated as a material
654 variance in the offer or acceptance of any state to participate
655 in this compact. Such an opt out shall be effective at the time
656 of enactment of this compact by the compacting state and shall
657 apply to all existing uniform standards involving long-term care
658 insurance products and those subsequently adopted.

659 (5) Effect of opting out.—If a compacting state elects to
660 opt out of a uniform standard, the uniform standard shall remain
661 applicable in the compacting state electing to opt out until
662 such time as the opt out legislation is enacted into law or the
663 regulation opting out becomes effective. Once the opt out of a
664 uniform standard by a compacting state becomes effective as
665 provided under the laws of that state, the uniform standard
666 shall have no further force and effect in that state unless and
667 until the legislation or regulation implementing the opt out is
668 repealed or otherwise becomes ineffective under the laws of the
669 state. If a compacting state opts out of a uniform standard
670 after the uniform standard has been made effective in that
671 state, the opt out shall have the same prospective effect as
672 provided under Article XIV for withdrawals.

673 (6) Stay of uniform standard.—If a compacting state has
674 formally initiated the process of opting out of a uniform
675 standard by regulation, and while the regulatory opt out is
676 pending, the compacting state may petition the commission, at
677 least 15 days before the effective date of the uniform standard,
678 to stay the effectiveness of the uniform standard in that state.
679 The commission may grant a stay if the commission determines the
680 regulatory opt out is being pursued in a reasonable manner and
681 there is a likelihood of success. If a stay is granted or
682 extended by the commission, the stay or extension thereof may
683 postpone the effective date by up to 90 days, unless
684 affirmatively extended by the commission; provided a stay may
685 not be permitted to remain in effect for more than 1 year unless
686 the compacting state can show extraordinary circumstances which
687 warrant a continuance of the stay, including, but not limited
688 to, the existence of a legal challenge which prevents the
689 compacting state from opting out. A stay may be terminated by
690 the commission upon notice that the rulemaking process has been
691 terminated.

692 (7) Judicial review.—Within 30 days after a rule or
693 operating procedure is adopted, any person may file a petition
694 for judicial review of the rule or operating procedure; provided
695 the filing of such a petition shall not stay or otherwise
696 prevent the rule or operating procedure from becoming effective
697 unless the court finds that the petitioner has a substantial
698 likelihood of success. The court shall give deference to the
699 actions of the commission consistent with applicable law and
700 shall not find the rule or operating procedure to be unlawful if

701 the rule or operating procedure represents a reasonable exercise
 702 of the commission's authority.

703

704 Article VIII

705

706 COMMISSION RECORDS AND ENFORCEMENT.—

707 (1) The commission shall adopt rules establishing
 708 conditions and procedures for public inspection and copying of
 709 its information and official records, except such information
 710 and records involving the privacy of individuals and insurers'
 711 trade secrets. The commission may adopt additional rules under
 712 which the commission may make available to federal and state
 713 agencies, including law enforcement agencies, records and
 714 information otherwise exempt from disclosure and may enter into
 715 agreements with such agencies to receive or exchange information
 716 or records subject to nondisclosure and confidentiality
 717 provisions.

718 (2) Except as to privileged records, data, and
 719 information, the laws of any compacting state pertaining to
 720 confidentiality or nondisclosure shall not relieve any
 721 compacting state commissioner of the duty to disclose any
 722 relevant records, data, or information to the commission;
 723 provided disclosure to the commission shall not be deemed to
 724 waive or otherwise affect any confidentiality requirement; and
 725 further provided, except as otherwise expressly provided in this
 726 compact, the commission shall not be subject to the compacting
 727 state's laws pertaining to confidentiality and nondisclosure
 728 with respect to records, data, and information in its

729 possession. Confidential information of the commission shall
 730 remain confidential after such information is provided to any
 731 commissioner; however, all requests from the public to inspect
 732 or copy records, data, or information of the commission,
 733 wherever received, by and in the possession of the office,
 734 commissioner, or the commissioner's designee shall be subject to
 735 chapter 119, Florida Statutes.

736 (3) The commission shall monitor compacting states for
 737 compliance with duly adopted bylaws, rules, uniform standards,
 738 and operating procedures. The commission shall notify any
 739 noncomplying compacting state in writing of its noncompliance
 740 with commission bylaws, rules, or operating procedures. If a
 741 noncomplying compacting state fails to remedy its noncompliance
 742 within the time specified in the notice of noncompliance, the
 743 compacting state shall be deemed to be in default as set forth
 744 in Article XIV of this compact.

745 (4) The commissioner of any state in which an insurer is
 746 authorized to do business or is conducting the business of
 747 insurance shall continue to exercise his or her authority to
 748 oversee the market regulation of the activities of the insurer
 749 in accordance with the provisions of the state's law. The
 750 commissioner's enforcement of compliance with the compact is
 751 governed by the following provisions:

752 (a) With respect to the commissioner's market regulation
 753 of a product or advertisement that is approved or certified to
 754 the commission, the content of the product or advertisement
 755 shall not constitute a violation of the provisions, standards,
 756 or requirements of the compact except upon a final order of the

757 commission, issued at the request of a commissioner after prior
 758 notice to the insurer and an opportunity for hearing before the
 759 commission.

760 (b) Before a commissioner may bring an action for
 761 violation of any provision, standard, or requirement of the
 762 compact relating to the content of an advertisement not approved
 763 or certified to the commission, the commission, or an authorized
 764 commission officer or employee, must authorize the action.
 765 However, authorization pursuant to this paragraph does not
 766 require notice to the insurer, opportunity for hearing, or
 767 disclosure of requests for authorization or records of the
 768 commission's action on such requests.

769
 770 Article IX
 771

772 DISPUTE RESOLUTION.—The commission shall attempt, upon the
 773 request of a member, to resolve any disputes or other issues
 774 that are subject to this compact and which may arise between two
 775 or more compacting states, or between compacting states and
 776 noncompacting states, and the commission shall adopt an
 777 operating procedure providing for resolution of such disputes.
 778

779 Article X
 780

781 PRODUCT FILING AND APPROVAL.—

782 (1) Insurers and third-party filers seeking to have a
 783 product approved by the commission shall file the product with
 784 and pay applicable filing fees to the commission. Nothing in

785 this compact shall be construed to restrict or otherwise prevent
 786 an insurer from filing its product with the insurance department
 787 in any state in which the insurer is licensed to conduct the
 788 business of insurance and such filing shall be subject to the
 789 laws of the states where filed.

790 (2) The commission shall establish appropriate filing and
 791 review processes and procedures pursuant to commission rules and
 792 operating procedures. Notwithstanding any provision of this
 793 article, the commission shall adopt rules to establish
 794 conditions and procedures under which the commission will
 795 provide public access to product filing information. In
 796 establishing such rules, the commission shall consider the
 797 interests of the public in having access to such information, as
 798 well as protection of personal medical and financial information
 799 and trade secrets, that may be contained in a product filing or
 800 supporting information.

801 (3) Any product approved by the commission may be sold or
 802 otherwise issued in those compacting states for which the
 803 insurer is legally authorized to do business.

804
 805 Article XI
 806

807 REVIEW OF COMMISSION DECISIONS REGARDING FILINGS.—

808 (1) Within 30 days after the commission has given notice
 809 of a disapproved product or advertisement filed with the
 810 commission, the insurer or third-party filer whose filing was
 811 disapproved may appeal the determination to a review panel
 812 appointed by the commission. The commission shall adopt rules to

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813 establish procedures for appointing such review panels and
814 provide for notice and hearing. An allegation that the
815 commission, in disapproving a product or advertisement filed
816 with the commission, acted arbitrarily, capriciously, or in a
817 manner that is an abuse of discretion or otherwise not in
818 accordance with the law, is subject to judicial review in
819 accordance with subsection (4) of Article III.

820 (2) The commission shall have authority to monitor,
821 review, and reconsider products and advertisement subsequent to
822 their filing or approval upon a finding that the product does
823 not meet the relevant uniform standard. Where appropriate, the
824 commission may withdraw or modify its approval after proper
825 notice and hearing, subject to the appeal process in subsection
826 (1).

827
828 Article XII

829
830 FINANCE.—

831 (1) The commission shall pay or provide for the payment of
832 the reasonable expenses of the commission's establishment and
833 organization. To fund the cost of the commission's initial
834 operations, the commission may accept contributions and other
835 forms of funding from the National Association of Insurance
836 Commissioners, compacting states, and other sources.
837 Contributions and other forms of funding from other sources
838 shall be of such a nature that the independence of the
839 commission concerning the performance of commission duties shall
840 not be compromised.

841 (2) The commission shall collect a filing fee from each
842 insurer and third-party filer filing a product with the
843 commission to cover the cost of the operations and activities of
844 the commission and its staff in a total amount sufficient to
845 cover the commission's annual budget.

846 (3) The commission's budget for a fiscal year shall not be
847 approved until the budget has been subject to notice and comment
848 as set forth in Article VII.

849 (4) The commission shall be exempt from all taxation in
850 and by the compacting states.

851 (5) The commission shall not pledge the credit of any
852 compacting state, except by and with the appropriate legal
853 authority of that compacting state.

854 (6) The commission shall keep complete and accurate
855 accounts of all its internal receipts, including grants and
856 donations, and disbursements of all funds under its control. The
857 internal financial accounts of the commission shall be subject
858 to the accounting procedures established under its bylaws. The
859 financial accounts and reports including the system of internal
860 controls and procedures of the commission shall be audited
861 annually by an independent certified public accountant. Upon the
862 determination of the commission, but no less frequently than
863 every 3 years, the review of the independent auditor shall
864 include a management and performance audit of the commission.
865 The commission shall make an annual report to the Governor and
866 the presiding officers of the Legislature of the compacting
867 states, which shall include a report of the independent audit.
868 The commission's internal accounts shall not be confidential and

869 such materials may be shared with the commissioner of any
 870 compacting state upon request; provided any work papers related
 871 to any internal or independent audit and any information
 872 regarding the privacy of individuals and insurers' proprietary
 873 information, including trade secrets, shall remain confidential.

874 (7) No compacting state shall have any claim to or
 875 ownership of any property held by or vested in the commission or
 876 to any commission funds held pursuant to the provisions of this
 877 compact.

878
 879 Article XIII

880
 881 COMPACTING STATES, EFFECTIVE DATE, AMENDMENT.—

882 (1) Any state is eligible to become a compacting state.

883 (2) The compact shall become effective and binding upon
 884 legislative enactment of the compact into law by two compacting
 885 states; provided the commission shall become effective for
 886 purposes of adopting uniform standards for, reviewing, and
 887 giving approval or disapproval of, products filed with the
 888 commission that satisfy applicable uniform standards only after
 889 26 states are compacting states or, alternatively, by states
 890 representing greater than 40 percent of the premium volume for
 891 life insurance, annuity, disability income, and long-term care
 892 insurance products, based on records of the National Association
 893 of Insurance Commissioners for the prior year. Thereafter, the
 894 compact shall become effective and binding as to any other
 895 compacting state upon enactment of the compact into law by that
 896 state.

897 (3) Amendments to the compact may be proposed by the
 898 commission for enactment by the compacting states. No amendment
 899 shall become effective and binding upon the commission and the
 900 compacting states unless and until all compacting states enact
 901 the amendment into law.

903 Article XIV

904
 905 WITHDRAWAL; DEFAULT; DISSOLUTION.—

906 (1) Withdrawal.—

907 (a) Once effective, the compact shall continue in force
 908 and remain binding upon each and every compacting state;
 909 provided a compacting state may withdraw from the compact by
 910 enacting a law specifically repealing the law which enacted the
 911 compact into law.

912 (b) The effective date of withdrawal is the effective date
 913 of the repealing law. However, the withdrawal shall not apply to
 914 any product filings approved or self-certified, or any
 915 advertisement of such products, on the date the repealing law
 916 becomes effective, except by mutual agreement of the commission
 917 and the withdrawing state unless the approval is rescinded by
 918 the withdrawing state as provided in paragraph (e).

919 (c) The commissioner of the withdrawing state shall
 920 immediately notify the management committee in writing upon the
 921 introduction of legislation repealing this compact in the
 922 withdrawing state.

923 (d) The commission shall notify the other compacting
 924 states of the introduction of such legislation within 10 days

925 after the commission's receipt of notice of such legislation.

926 (e) The withdrawing state is responsible for all
927 obligations, duties, and liabilities incurred through the
928 effective date of withdrawal, including any obligations, the
929 performance of which extend beyond the effective date of
930 withdrawal, except to the extent those obligations may have been
931 released or relinquished by mutual agreement of the commission
932 and the withdrawing state. The commission's approval of products
933 and advertisement prior to the effective date of withdrawal
934 shall continue to be effective and be given full force and
935 effect in the withdrawing state unless formally rescinded by the
936 withdrawing state in the same manner as provided by the laws of
937 the withdrawing state for the prospective disapproval of
938 products or advertisement previously approved under state law.

939 (f) Reinstatement following withdrawal of any compacting
940 state shall occur upon the effective date of the withdrawing
941 state reenacting the compact.

942 (2) Default.—

943 (a) If the commission determines that any compacting state
944 has at any time defaulted in the performance of any of its
945 obligations or responsibilities under this compact, the bylaws,
946 or duly adopted rules or operating procedures, after notice and
947 hearing as set forth in the bylaws, all rights, privileges, and
948 benefits conferred by this compact on the defaulting state shall
949 be suspended from the effective date of default as fixed by the
950 commission. The grounds for default include, but are not limited
951 to, failure of a compacting state to perform its obligations or
952 responsibilities, and any other grounds designated in commission

953 rules. The commission shall immediately notify the defaulting
954 state in writing of the defaulting state's suspension pending a
955 cure of the default. The commission shall stipulate the
956 conditions and the time period within which the defaulting state
957 must cure its default. If the defaulting state fails to cure the
958 default within the time period specified by the commission, the
959 defaulting state shall be terminated from the compact and all
960 rights, privileges, and benefits conferred by this compact shall
961 be terminated from the effective date of termination.

962 (b) Product approvals by the commission or product self-
963 certifications, or any advertisement in connection with such
964 product that are in force on the effective date of termination
965 shall remain in force in the defaulting state in the same manner
966 as if the defaulting state had withdrawn voluntarily pursuant to
967 subsection (1).

968 (c) Reinstatement following termination of any compacting
969 state requires a reenactment of the compact.

970 (3) Dissolution of compact.—

971 (a) The compact dissolves effective upon the date of the
972 withdrawal or default of the compacting state which reduces
973 membership in the compact to a single compacting state.

974 (b) Upon the dissolution of this compact, the compact
975 becomes null and void and shall be of no further force or effect
976 and the business and affairs of the commission shall be
977 concluded and any surplus funds shall be distributed in
978 accordance with the bylaws.

979

980 Article XV

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SEVERABILITY; CONSTRUCTION.-

(1) The provisions of this compact are severable and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

Article XVI

BINDING EFFECT OF COMPACT AND OTHER LAWS.-

(1) Binding effect of this compact.-

(a) All lawful actions of the commission, including all rules and operating procedures adopted by the commission, are binding upon the compacting states.

(b) All agreements between the commission and the compacting states are binding in accordance with their terms.

(c) Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

(d) If any provision of this compact exceeds the constitutional limits imposed on the Legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that compacting state and

1009 those obligations, duties, powers, or jurisdiction shall remain
 1010 in the compacting state and shall be exercised by the agency of
 1011 such state to which those obligations, duties, powers, or
 1012 jurisdiction are delegated by law in effect at the time this
 1013 compact becomes effective.

1014 (2) Other laws.—

1015 (a) Nothing in this compact prevents the enforcement of
 1016 any other law of a compacting state, except as provided in
 1017 paragraph (b).

1018 (b) For any product approved or certified to the
 1019 commission, the rules, uniform standards, and any other
 1020 requirements of the commission shall constitute the exclusive
 1021 provisions applicable to the content, approval, and
 1022 certification of such products. For advertisement that is
 1023 subject to the commission's authority, any rule, uniform
 1024 standard, or other requirement of the commission which governs
 1025 the content of the advertisement shall constitute the exclusive
 1026 provision that a commissioner may apply to the content of the
 1027 advertisement. Notwithstanding this paragraph, no action taken
 1028 by the commission shall abrogate or restrict:

1029 1. The access of any person to state courts;

1030 2. Remedies available under state law related to breach of
 1031 contract, tort, or other laws not specifically directed to the
 1032 content of the product;

1033 3. State law relating to the construction of insurance
 1034 contracts; or

1035 4. The authority of the attorney general of the state,
 1036 including, but not limited to, maintaining any actions or

1037 proceedings, as authorized by law.

1038 (c) All insurance products filed with individual states
 1039 shall be subject to the laws of those states.

1040 Section 3. Election to opt out of all uniform standards
 1041 adopted by the commission involving long-term care insurance
 1042 products; adoption of existing uniform standards of the
 1043 commission; procedure for adoption of new or amended uniform
 1044 standards; notification of new or amended uniform standards:

1045 (1) Pursuant to Article VII of the compact, authorized in
 1046 this act, the State of Florida prospectively opts out of all
 1047 uniform standards adopted by the commission involving long-term
 1048 care insurance products, and such opt out shall not be treated
 1049 as a material variance in the offer or acceptance of this state
 1050 to participate in the compact.

1051 (2) Except as provided in subsection (1), all uniform
 1052 standards adopted by the commission as of March 1, 2013 are
 1053 adopted by this state.

1054 (3) Notwithstanding (3), (4), (5), and (6) of Article VII,
 1055 as a participant in this compact, it is the policy of the State
 1056 of Florida to opt out, and the office shall opt out, of any new
 1057 uniform standard adopted by the commission after March 1, 2013
 1058 or amendments to existing uniform standards adopted by the
 1059 commission after March 1, 2013 where such amendments
 1060 substantially alter or add to existing uniform standards adopted
 1061 by this state in subsection (2) until such time as this state
 1062 enacts legislation to adopt or opt out of new uniform standards
 1063 or such amendments to uniform standards adopted by the
 1064 commission after March 1, 2013.

1065 (4) The Financial Services Commission may adopt rules to
 1066 implement this act. It is the policy of the State of Florida
 1067 that this state's participation in new uniform standards or
 1068 amendments to uniform standards adopted after March 1, 2013 as
 1069 set out in subsection (3) that have not been legislatively
 1070 approved by this state may not reasonably protect the citizens
 1071 of this state based on Article XVI(1)(d) of this act. The
 1072 Financial Services Commission shall use the rulemaking authority
 1073 granted in this subsection to opt out of any new uniform
 1074 standards or amendments to existing uniform standards where such
 1075 amendments substantially alter or add to existing uniform
 1076 standards adopted by the State of Florida in subsection (2)
 1077 until such uniform standards are legislatively approved by this
 1078 state.

1079 (5) After enactment of this section, if the commission
 1080 adopts any new uniform standard or amendment to uniform
 1081 standards as set out in subsection (3), the office shall
 1082 immediately notify the legislature of such new uniform standard
 1083 or amendment to existing uniform standard. If the office or a
 1084 court of competent jurisdiction finds that the procedure set out
 1085 in subsection(3) has not been followed, notice shall be given to
 1086 the legislature, and reasonable and prompt measures shall be
 1087 taken to opt out of a uniform standard that has not been
 1088 legislatively approved by the State of Florida.

1089 Section 4. Notwithstanding subsection (4) of Article XII,
 1090 the commission is subject to:

1091 (a) State unemployment or reemployment taxes imposed
 1092 pursuant to chapter 443, Florida Statutes, in compliance with

1093 | the Federal Unemployment Tax Act, for any persons employed by
 1094 | the commission who perform services for it within this state.

1095 | (b) Taxation for any commission business or activity
 1096 | conducted or performed in the State of Florida.

1097 | Section 5. Notwithstanding subsections (1) and (2) of
 1098 | Article VIII, subsection (2) of Article X, and subsection (6) of
 1099 | Article XII of this act, a request by a resident of this state
 1100 | for public inspection and copying of information, data, or
 1101 | official records that includes:

1102 | (a) Insurer's trade secrets shall be referred to the
 1103 | commissioner who shall respond to the request, with the
 1104 | cooperation and assistance of the commission, in accordance with
 1105 | section 624.4213, Florida Statutes, or

1106 | (b) Matters of privacy of individuals shall be referred to
 1107 | the commissioner who shall respond to the request, with the
 1108 | cooperation and assistance of the commission, in accordance with
 1109 | section 119.071, Florida Statutes.

1110 | (c) Nothing in this act abrogates a person's right to
 1111 | access information consistent with the Constitution and laws of
 1112 | the State of Florida.

1113 | Section 6. The Financial Services Commission may adopt
 1114 | rules to implement this act. The Financial Services Commission
 1115 | may use the rulemaking authority granted in this section to opt
 1116 | out of any new uniform standards adopted after the effective
 1117 | date of this act, pursuant to Article VII, until such standards
 1118 | are approved by the Legislature.

1119 | Section 7. This act shall take effect October 1, 2013.